

commission oversight of the timing of telephone bills. Also, the general nature of a 900 pay-per-call billing dispute is likely to be far more circumscribed than a billing dispute in another context, e.g., a credit card billing dispute over defective merchandise. Such a credit card dispute will be far more fact-intensive than a 900 call dispute, because the latter will focus primarily on whether a call was made. The Commission should evaluate the need for any separate writing under proposed § 308.7(d)(2)(ii) in cases where a local telephone company bills for 900 pay-per-call services, and where the local telephone company's bill includes basic information on the 900 call.

If the Commission adheres to the view that a written explanation or other writing still is needed at the end of a billing dispute investigation, it should not mandate a single vehicle for the response. A local telephone company responsible for the written explanation should be able to elect either to send a separate notice, or to use its existing billing system if it can be programmed to include an explanation with normal billing in a cost effective way. Each billing entity should be able to determine how to comply with any rule provisions in the most cost effective manner. The proposed rule correctly appears to allow either alternative.

These alternatives appear to be better suited to the unique aspects of the 900 pay-per-call services offered over telephone lines where local telephone companies

accept oral notification of billing errors from customers and there are multiple billing entities, including but not limited to the local telephone company.

Taken in concert with the proposed §308.7(o), these suggestions will allow the Commission to put into place a flexible but very effective and responsive set of protections for customers who have billing disputes related to 900 pay-per-call services.

II. OTHER COMMENTS.

A. Scope. The provision of pay-per-call services is rapidly outgrowing the basic telephone network, and the services are being offered through other communications technologies. Wireless cellular is an example. The Commission should revise those characterizations in its proposed rule that refer to "telephone" service, and replace them with "telecommunications." See proposed rule §308.6.

The Commission should assess whether the time that records are currently retained is adequate to demonstrate compliance with proposed §308.7 and to provide adequate substantiation of calls. It should align its rules with those of the FCC if the FCC rules are adequate and the Commission elects to adopt a rule.

The Commission should also target the language of its rule for both retention and production under § 308.6 more closely to the 900 call about which inquiry will be made. The proposed rule is unduly broad in scope, and will lead billing entities who are affected to incur more costs than are necessary to be responsive to expectations of the TDDRA. Also, the rule should not anticipate retention of records only marginally tied to 900 services.

C. Credit. The proposed rule anticipates generally that customers can get either refunds or credits from the responsible vendor. Occasionally, the proposed rule includes one but not the other. See §308.5(j). Contrast with §308.7(k).

Local telephone companies who deal with their customers on a recurring monthly basis prefer to issue credits on the monthly bill rather than refunds when a customer billing inquiry is resolved in the customer's favor. The rules should not inadvertently prevent this.

D. PIN Numbers. The Commission asks at Question 38 whether 900 calling should be accompanied by PIN numbers to screen unauthorized calls. USTA does not support a mandate for use of PIN numbers. Some vendors use these PIN numbers or other access codes to protect themselves and their customers from fraud.

F. **Financial Responsibility.** The Commission raises a number of questions about the "billing error" definition in Question 34. It is important that the subscriber to a telephone line remain responsible for 900 calls billed to its local telephone company account for that line. A call from another resident in the customer's household (or anyone else) from the customer's line is not a "billing error". This issue is one that is fundamental to the integrity of telephone subscribership and is needed to foster the correct incentives for control of unauthorized calls. If both callers from a line and the subscriber to whom the line is billed believe they can avoid financial responsibility for calls, the number of calls that will be characterized as unauthorized, or as not being the responsibility of the subscriber, will expand. This will affect the entire subscriber base. (This analysis does not affect the Commission's proposed § 308.7(p).)

G. **Timing of Credit and Payment Required.** The proposed §308.7(d)(3)(ii) states that there must be at least 20 days from the notification that billing was determined not to have been in error until the payment date that is expected. Local telephone companies' billing cycles usually are determined by specific regulations of state public service commissions. The Commission should permit local telephone companies to include billing for disputed 900 calls in their next bill cycle after a determination is made that the bill was not in error, for payment within the normal time set by state regulation. The time provided by specific state regulation for

telephone bill payment is likely to be reasonable, and is likely to have been subject to a preexisting determination generally to the effect that the period set would not impose harsh conditions on the customer. It would be reasonable to align the rules covering billing entities collection for 900 call payment after completion of a billing dispute inquiry with the rules that exist for routine telephone bill payment when the billing entity is a common carrier.

III. CONCLUSION.

The Commission's proposed rule is consistent with the statute adopted in 1992. USTA has suggested here some changes that are designed to improve the application and operation of the proposed rule, so that it can operate more efficiently in achieving the specific ends sought by the Commission. We ask that they be taken into account by the Commission in crafting its final rule.

Respectfully submitted,

UNITED STATES TELEPHONE ASSOCIATION

BY Martin T. McCue

Martin T. McCue
Vice President & General Counsel

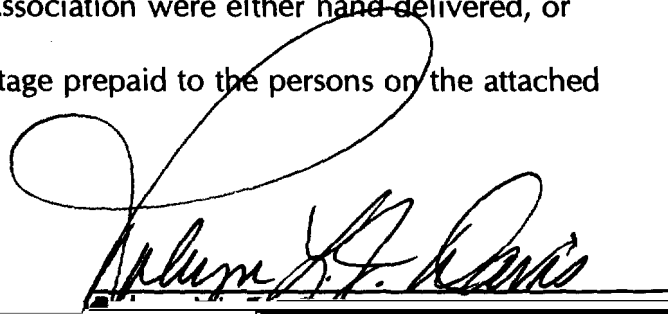
Anna Lim
Regulatory Counsel

900 19th Street, NW, Suite 800
Washington, D.C. 20006-2105
(202) 835-3100

April 9, 1993

CERTIFICATE OF SERVICE

I, Robyn L.J. Davis, do certify that on April 19, 1993 copies of the foregoing
Comments the United States Telephone Association were either hand-delivered, or
deposited in the U.S. Mail, first-class, postage prepaid to the persons on the attached
service list.



A handwritten signature in cursive script, appearing to read "Robyn L.J. Davis", is written over a horizontal line. The signature is fluid and stylized, with a large loop at the beginning.

*Richard Blumenthal
State of Connecticut
Office of the Attorney General
55 Elm Street, 7th Floor
Hartford, CT 06106*

*John C. Thomas
7911 Dartworth Drive
Parma, OH 44129*

*William J. Free
Richard C. Hartgrove
Diana J. Harter
Southwestern Bell Telephone Co.
1010 Pine Street
Room 2114
St. Louis, MO 63101*

*B.J. Stonebraker
Cincinnati Bell Telephone Co.
201 E. Fourth Street
102-300
P.O. Box 2301
Cincinnati, OH 45201*

*Philip F. McClelland
Pennsylvania Office of
Consumer Advocate
1425 Strawberry Square
Harrisburg, PA 17120*

*The National Association of State
Utility of Consumer Advocates
1133 15th Street, NW
suite 575
Washington, DC 20005*

*Andrew D. Lipman
Swidler & Berlin, Chartered
3000 K Street, NW
Suite 300
Washington, DC 20007*

*John F. Sturm
Claudia M. James
Brigitte M. Rouson
Newspaper Association of
America
Dulles Airport - P.O. Box 17047
Washington, DC 20004*

*Richard W. Wiley
Michael Yourshaw
Katherine A. King
Wiley, Rein & Fielding
1776 K Street, NW
Washington, DC 20006*

*Edwin N. Lavergne
Melanie Haratunian
Ginsburg, Feldman and Bress,*

*Sam Antar
Kristin C. Gerlach
Capital Cities/ABC, Inc.*

*Earl Nicholas Selby
420 Florence Street
Suite 200*

Eileen E. Huggard
City of New York
Dept. of Telecommunications and
Energy
75 Park Place
6th Floor
New York, NY 10007

Jerry L. Webb
Indiana Utility Regulatory Comm.
913 State Office Building
Indianapolis, IN 46204-2284

Ken McEldowney
Consumer Action
116 New Montgomery
Suite 233
San Francisco, CA 94105

Gregory M. Casey
Telesphere-Wiltel
655 W. Grand Avenue
Suite 300
Elmhurst, IL 60126

Brad E. Mutschelknaus
Rachel J. Rothstein
Wiley, Rein & Fielding
1776 K Street, NW
Washington, DC 20006

Howard J. Braun
Rosenman & Colin
1300 19th Street, NW
Washington, DC 20036

Steven J. Metalitz
Angela Burnett
Information Industry Association
555 New Jersey Avenue, NW
Suite 800
Washington, DC 20001

Josephine S. Trubek
Rochester Telephone Corp.
Rochester Tel. Center
180 South Clinton Avenue
Rochester, NY 14646-0700

Amy S. Gross
NYCOM Information Services, Inc.
5 High Ridge Park
Stamford, CT 06905

Ronald B. Mallard
Department of Consumer Affairs
3959 Pender Drive
Suite 200
Fairfax, VA 22030

Frank S. Levin
Hall, Dickler, Lawler, Kent &
Friedman
460 Park Avenue
New York, NY 10022-1906

Celia Nogales
Pacific Telesis
1275 Pennsylvania Avenue, NW
Fourth Floor
Washington, DC 20004

Floyd S. Keene
Michael S. Pabian
Ameritech Operating Cos.
30 South Wacker Drive
Suite 3900
Chicago, IL 60606

William B. Barfield
Richard M. Sbaratta
Helen A. Shockey
BellSouth Corporation
1155 Peachtree Street, NE
Suite 1800
Atlanta, GA 30367-6000

Patrick A. Lee
William J. Balcerski
NYNEX
120 Bloomingdale Road
White Plains, NY

Chris Sutherland
Promotion Marketing Association
of America, Inc.
322 Eighth Avenue
New York, NY 10001

John M. Goodman
Charles H. Kennedy
Bell Atlantic Telephone Cos.
1710 H Street, NW
Washington, DC 20006

Francine J. Berry
Mark C. Rosenblum
Peter H. Jacoby
AT&T
295 North Maple Avenue
Room 3244J2
Basking Ridge, NJ 07920

Randy Bakewell
Missouri Office of the Public
Counsel
P.O. Box 7800
Jefferson City, MO 65102

Linda F. Goldner
National Consumers League
815 15th Street, NW
Suite 928N
Washington, DC 20005

Mary J. Sisak
Donald J. Elardo
MCI Telecommunications Corp.
1133 19th Street, NW
Washington, DC 20036

*Richard McKenna W11L15
GTE Service Corporation
P.O. Box 152092
Irving, TX 75015-2092*

*Gail L. Polivy
GTE
1850 M Street, NW
Suite 1200
Washington, DC 20036*

*Leon M. Kestenbaum
Lesla Lehtonen
United Telecommunications, Inc.
1850 M Street, NW
11th Floor
Washington, DC 20036*

*Jay Keithley
David Matson
United Telecommunications, Inc.
1850 M Street, NW
11th Floor
Washington, DC 20036*

*Genevieve Morelli
Competitive Telecommunications
Association
120 Maryland Avenue, NE
Washington, DC 20002*

*Robert J. Aamoth
Reed, Smith, Shaw & McClay
1200 18th Street, NW
Washington, DC 20036*

*David Cosson
L. Marie Guillory
National Telephone Cooperative
Association
2626 Pennsylvania Avenue, NW
Washington, DC 20037*

*The Honorable Bart Gordon
103 Cannon Building
Washington, DC 20515*

*Diane Dean
State of NY DPS
Three Empire State Plaza
Albany, NY 12223*

*John Richeson
Tel Control, Inc.
P.O. Box 4087
Huntsville, AL 35815-4087*

*Carol F. Sulkes
Central Telephone Co.
O'Hare Plaza
8745 Higgins Road
Chicago, IL 60631*

*Hubert H. Humphrey, III
Gary R. Cunningham
State of Minnesota
340 Bremer Tower
Seventh Place & Minnesota St.
St. Paul, MN 55101*

*Linda C. Smith
Veronica A. Smith
John F. Povilaitis
Pennsylvania PUC
P.O. Box 3265
Harrisburg, PA 17120*

*Joel R. Dichte
Seham, Klein & Zelman
Associated of Information
Providers of New York
485 Madison Avenue
New York, NY 10022*

*George C. Davis
United States Postal Service
475 L'Enfant Plaza, SW
Washington, DC 20260-1100*

*Robert J. Del Tufo
State of New Jersey
Department of Law and Public
Safety
Hughes Justice Complex
GN 080
Trenton, NJ 08625-0080*

*Paul Rodgers
Charles D. Gray
James Bradford Ramsay
NARUC
1102 ICC Building
P.O. Box 684
Washington, DC 20044*

*Eugene G. Hanes
Alabama PSC
P.O. Box 991
Montgomery, AL 36101-0991*

*Mary Newmeyer
Alabama PSC
P.O. Box 991
Montgomery, AL*

*P. Michael Cole
Patton, Latham, Legge & Cole
315 Market Street
P.O. Box 470
Athens, AL 35611-0470*

*Andrew D. Lipman
Ann P. Morton
Swidler & Berlin
3000 K Street, NW
Suite 300
Washington, DC 20007*

*Bar Biszik
Richard Mehr
Music Access, Inc.
90 Fifth Avenue
Brooklyn, NY 11217*

*Jim Conran
State and Consumer Services
Agency
1020 N Street
Sacramento, CA 95814*

*Ian D. Volner
J. Brian DeBoice
Cohn and Marks
1333 New Hampshire Avenue, NW
Suite 600
Washington, DC 20036*

*Downtown Copy Center
1114 21st Street, NW
Washington, DC 20036*